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## **An Act To Authorize Certain County Jail Employees To Perform Ministerial Functions Related to Preparing Personal Recognizance or Unsecured Appearance Bond**

**Emergency preamble.** Whereas, acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** authorizing certain county jail employees to perform ministerial functions related to preparing personal recognizance or an unsecured appearance bond has been the practice of several jails and has been of benefit to both the jails and their inmates in facilitating release; and

**Whereas,** the mechanism that has been relied on to accomplish these ministerial functions has been appointment of jail employees as bail commissioners, which is not permissible under the constitutional doctrine of separation of powers and by virtue of the Maine Revised Statutes, Title 30-A, section 353; and

**Whereas,** creating a permissible process for these ministerial functions will benefit both the county jails and the inmates; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 15 MRSA §1025-A** is enacted to read:

### **§ 1025-A. County jail employees**

If a court issues an order that a defendant in custody be released, pending trial, on personal recognizance or upon execution of an unsecured appearance bond, whether or not accompanied by one or more conditions under section 1026, subsection 3, an employee of the county jail having custody of the defendant, if authorized to do so by the sheriff, may, without fee, prepare the personal recognizance or bond and take the acknowledgement of the defendant.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

## **SUMMARY**

This bill authorizes a county jail employee to perform, without fee, the ministerial functions associated with releasing a county jail prisoner on personal recognizance or an unsecured appearance bond if a court has already ordered such a release, with or without additional conditions but without the financial conditions that would create a secured bond. This may be done if the sheriff has authorized the county jail employee to perform these functions.